



Oregon

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To: Energy Facility Siting Council

From: Sarah Esterson, Senior Policy Advisor, Oregon Department of Energy Siting Division

Date: July 11, 2025

Subject: Agenda Item I (Information Item): Historic, Cultural and Archeological Resources Standard Overview for the July 18, 2025 EFSC Meeting

PURPOSE OF AGENDA ITEM

Oregon Department of Energy (Department) staff will present to the Energy Facility Siting Council (Council) an overview of the Historic, Cultural and Archeological Resources standard; staff's process for evaluating the adequacy and accuracy of facts and analysis provided in applications for site certificate and requests for site certificate amendments; and approach for recommending mitigation/site certificate conditions.

OVERVIEW OF HISTORIC, CULTURAL AND ARCHEOLOGICAL RESOURCES STANDARD

Council's standards are encompassed in Oregon Administrative Rule (OAR) Chapter 345 Division 22, 23 and 24. Council standards include requirements of the standard *and* the information necessary to evaluate compliance with the standard.¹ Requirements of the Historic, Cultural and Archeological Resources standard are presented below.

To comply with the **Historic, Cultural and Archeological Resources standard** (OAR 345-022-0090(1)), the Council must find that:

- "..the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impacts to:*
- (a) Historic, cultural or archaeological resources that have been listed on, or would likely be listed on the National Register of Historic Places;*
 - (b) For a facility on private land, archaeological objects, as defined in ORS 358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c); and*
 - (c) For a facility on public land, archaeological sites, as defined in ORS 358.905(1)(c)."*

¹ OAR 345-021-0010(1) allows the Department to determine whether information requirements identified in the standard must be provided by an applicant/certificate holder. In other words, while the information requirements are included with the language of the standard, the information requirements may be modified or waived by the Department if determined unnecessary or irrelevant to the analysis to be conducted for evaluation of compliance with the standard.

Information requirements established as a baseline for the Council's Historic, Cultural and Archeological Resources standard (OAR 345-022-0090(4)) are as follows:

- (a) Historic and cultural resources within the analysis area that have been listed, or would likely be eligible for listing, on the National Register of Historic Places;*
- (b) For private lands, archaeological objects, as defined in ORS 358.905(1)(a), and archaeological sites, as defined in ORS 358.905(1)(c), within the analysis area;*
- (c) For public lands, archaeological sites, as defined in ORS 358.905(1)(c), within the analysis area;*
- (d) The significant potential impacts, if any, of the construction, operation and retirement of the proposed facility on the resources described in subsections (a), (b), and (c) and a plan for protection of those resources that includes at least the following:*
 - (A) A description of any discovery measures, such as surveys, inventories, and limited subsurface testing work, recommended by the State Historic Preservation Officer or the National Park Service of the U.S. Department of Interior for the purpose of locating, identifying and assessing the significance of resources listed in subsections (a), (b), and (c);*
 - (B) The results of the discovery measures described in paragraph (A), together with an explanation by the applicant of any variations from the survey, inventory, or testing recommended;*
 - (C) A list of measures to prevent destruction of the resources identified during surveys, inventories and subsurface testing referred to in paragraph (A) or discovered during construction; and*
- (e) The applicant's proposed monitoring program, if any, for impacts to historic, cultural and archaeological resources during construction and operation of the proposed facility.*

EVALUATION OF THE STANDARD

Staff's approach to evaluating a Historic, Cultural and Archeological Resources Exhibit prepared for an application for site certificate or request for site certificate amendment includes the following steps:

1. Evaluate solely whether the information required in OAR 345-022-0090(4), or as modified in the Project Order, has been provided for each of the applicable resource types.

The standard applies to 4 resource types meeting specific criteria – the resources types, as presented in -0090(4)(a)-(c), include resources that are either listed or determined likely to be listed on the National Historic Register of Historic Places (NRHP); archeological objects; and archeological sites. Aboveground historic resources and Historic Places of Religious and Cultural Significance to Indian Tribes (HPRCSITs) are a subset of (a).

2. Per OAR 345-022-0090(4)(d)(A): Evaluate inventory/survey methods and survey area. Assess whether methods align or deviate from current state or federal guidance for each resource type, based on the methods relied upon; assess/identify whether survey area omitted areas sought for facility related impacts. Any deviations in methods or unsurveyed area will be evaluated to determine whether additional survey work is necessary to inform the

evaluation under the standard. (Additional survey work refers to field work, which is critical for the Department to determine early in the process because it is seasonal, timely and costly. Must be identified early to limit surprises and schedule impacts).

3. Coordinate with applicant/certificate holder on submittal of confidential technical reports to the State Historic Preservation Office (SHPO) and tribal governments.

The siting process requires that Department staff coordinate and consult with SHPO and affected tribal governments on the review of potential impacts and mitigation under the standard, however, the Department relies upon the applicant/certificate holder to submit confidential materials to SHPO/tribes to ensure adequate treatment and protection of confidential materials. This requires clear coordination on the submittals and process, as the reports are often available and submitted in advance of Department receipt of the preliminary ASC or amendment request (i.e., reports are submitted to SHPO/tribes off of the Department's cycle and lends itself to confusion). In addition, SHPO has specific protocols and procedures for submitting documents that must be followed, which require coordination/verification by the Department to allow Siting's agency review coordination process to start.

4. Consult with SHPO and/or ODOE's third-party consultant (subject matter expert) on the adequacy of the evaluation of resources, proposed avoidance/monitoring measures and mitigation.
5. Consult with affected tribal governments on the adequacy of the evaluation of resources, proposed avoidance/monitoring measures and mitigation; or confirm with affected tribal government whether they prefer to review/resolve outside of the public process with applicant/certificate holder directly, but contingent on tribal concurrence to the Department on outcome (i.e., avoidance and/or mitigation).
6. The Department recommends findings of fact in a draft proposed order, based on facts confirmed through Steps 1-5.
7. The Department recommends conditions in a draft proposed order with avoidance, monitoring and mitigation requirements based on consultation with SHPO, affected tribal governments and/or ODOE's third-party consultant. Avoidance distances and monitoring requirements are standardized for resources. Mitigation requirements are resource specific and require consultation with subject matter experts.

Staff will provide specific examples during the July 18, 2025 Council presentation.